THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 5984 OF 2007

Dated 6th November, 2007

Between:

Parupatakam Laxminarsimha Reddy

…Petitioner

And

Warangal District Co-operative Central
Bank Ltd., Subedari, Hanamkonda and others.

…Respondents.

ORAL ORDER:

In this writ petition, the petitioner has questioned the order passed by the Andhra Pradesh Cooperative Tribunal in Review Petition No. 4 of 2006.

The father of the petitioner, by name, Bal Reddy, availed loan of Rs.6,00,000/- from the first respondent – District Cooperative Central Bank Limited, Hanamkonda for the purpose of purchasing a vehicle. At the time of sanction of loan, he deposited title deeds of his property. The petitioner is a son of late Bal Reddy. On the ground that the petitioner has not repaid the loan amount, respondent-Bank has applied for Recovery Certificate under Section 71 of the A.P.Cooperative Societies Act, 1964 for a sum of Rs. 8,46,587/-. During the pendency of the said proceedings, the property of the petitioner was attached on 27.5.2005 in exercise of powers under Section 73 of the A.P. Cooperative Societies Act, 1964. The respondents have also issued sale notice dated 28.5.2005. Questioning the attachment order dated 27.5.2005 issued under Section 73 of the Act and also the sale notice dated 28.5.2005, the petitioner has filed C.T.A. No. 15 of 2005 before the Andhra Pradesh CooperativeTribunal at Warangal.

In the appeal, it was the specific case of the petitioner that in the absence of any Recovery Certificate, there was no authority for the respondents to sell the property, which was given as security. But, however, the Cooperative Tribunal had dismissed the appeal filed by the petitioner by order dated 1.7.2006, mainly, on the ground that the petitioner had approached the Tribunal without challenging the validity of the Certificate issued under Section 71 of the Act. Thereafter, he filed a Review Petition on the ground that there is an error apparent on the face of the record inasmuch as the sale notice

was issued even before issuance of the Certificate under Section 71 of the Act.

In this writ petition, when the matter has come up on the last occasion, on the submission of the learned counsel for the petitioner that there was no Recovery Certificate issued by the competent authority under Section 71 of the A.P. Cooperative Societies Act on the date of issuance of sale notice, the learned counsel for respondents was asked to produce copy of the Certificate. The learned Standing Counsel for the Bank has produced a copy of the certificate, which shows that it was issued in Case No.1/2005-06 on 10.6.2005. In that view of the matter, merely because the petitioner has not questioned the Certificate issued under Section 71 of the Act, that does not constitute a ground for rejection of the appeal filed by the petitioner and the Review petition, in which he has challenged the sale-notice dated 28.5.2005. As much as the Tribunal has not considered the fundamental issue as to the validity of the sale-notice issued on 28.5.2005 in the absence of any Recovery Certificate as on that date, I deem it a fit case to be reconsidered by the Tribunal.

Accordingly, the order under challenge dated 29.12.2006 is set aside and the matter is remitted back to the A.P. Cooperative Tribunal, Warangal, with a direction to reconsider the Review Petition filed by the petitioner afresh on the grounds stated therein, as expeditiously as possible, and, till appropriate orders are passed in the Review Petition, no steps shall be taken for sale of the security given by the late father of the petitioner in respect of the loan obtained by him.

It is made clear that if the petitioner is aggrieved by the Certificate issued under Section 71 of the A.P. Cooperative Societies Act, 1964, it is open for him to challenge its validity. In such an event, the same shall be considered uninfluenced by any of the observations made in this order.

Subject to above direction, the writ petition is disposed of. No

costs.

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6-11-2007 **R.SUBHASH REDDY, J.**

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